STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE:

DOCKET NO. SPU-00-7

(DRU-00-2)

ORDER DOCKETING PROCEEDING AND ESTABLISHING PROCEDURAL SCHEDULE

(Issued June 23, 2000)

On May 19, 2000, U S WEST Communications, Inc. (U S WEST), filed a petition for declaratory order regarding the exchange of local traffic by wireless and other local calling entities transiting U S WEST's facilities. U S WEST's petition, identified as Docket No. DRU-00-2, alleged that the originating and terminating companies must reach their own agreements as to the terms and technical conditions for the exchange of local traffic, even though U S WEST facilities are used for transit traffic.¹

U S WEST specifically requested the Iowa Utilities Board (Board) respond to the following list of questions:

A. Is it the responsibility of non-U S WEST local exchange providers, whether wireline or wireless, that desire to exchange local traffic, whether EAS or other local traffic, using U S WEST's facilities in whole or in part for such exchange, to reach an agreement between such non-U S WEST

US WEST offers services that allow transport of local traffic which originates with a carrier other than US WEST to be terminated to a carrier other than US WEST by using US WEST's facilities for a portion of the route. This transport is often referred to as "transit traffic."

companies as to the financial terms and technical conditions that would govern such exchange of local traffic?

- B. Are such local exchange companies required to negotiate arrangements between them as to the financial and technical terms and conditions for the exchange of local traffic without the involuntary involvement of U S WEST in the negotiations?
 - C. Are such agreements required to be filed with the Board?
- D. May U S WEST refuse to carry local transit traffic until such time as the originating and terminating carriers have reached an agreement, filed it with the Board and obtained Board approval?
- E. Can lowa Network Services, Inc. (INS), impose a toll Centralized Equal Access charge, or can its participating terminating local exchange carriers impose a toll access charge (or any other charge), upon U S WEST to terminate local traffic originated by another local carrier that simply transits U S WEST's facilities?
- F. If INS or a participating terminating local exchange carrier has a tariff, or an interpretation and application of a tariff, that has operated and continues to operate in such a manner as to impose charges upon U S WEST for terminating local traffic when U S WEST is acting only as a transit carrier, is such a tariff (or interpretation or application of such tariff) null and void and of no effect, and is U S WEST entitled to the refund of payments of such charges?

In its petition for intervention in Docket No. DRU-00-2, INS describes what appears to be a technological problem with the recording and exchange of carrier identification code (CIC) records on calls sent to INS from U S WEST.²

lowa Code § 17A.9(5) provides that an agency may decline to issue a declaratory order. The Board issued an order refusing to issue a declaratory order in Docket No. DRU-00-2 pursuant to Iowa Code § 17A.9(5) and 199 IAC 4.9(1)"5," "6," and "9." A declaratory order is issued when a person requests the Board to determine the applicability of a statute, rule, or order, within the primary jurisdiction of the Board, to a specified set of circumstances. (See 199 IAC 4.1). The matter addressed by U S WEST in its petition was much broader than a simple matter of determining the applicability of a statute, rule, or order.

To address the questions raised by U S WEST's petition for declaratory order, the dispute surrounding the exchange of CIC records as discussed in INS' petition for intervention, and any related questions or issues that may be raised by the parties, the Board is docketing this matter as Docket No. SPU-00-7. This SPU docket will permit discovery and allow a full and complete record as it applies to the entire telecommunications industry to be presented for the Board to consider in making its final decision.

Petitions to intervene were filed by AT&T Wireless Service, Inc., Iowa Network Services, Inc., Iowa Telecommunications Association, Rural Iowa Independent Telephone Association, and U.S. Cellular Corporation in Docket No. DRU-00-2. Having closed Docket No. DRU-00-2 and, by this order, opened Docket No.

² INS Petition for Intervention at 3.

SPU-00-7 to consider the issues raised by U S WEST's May 19, 2000, petition for declaratory order and other issues relating to transit traffic, the Board will grant the requests for interventions as if they were filed in this new proceeding, unless the Board receives a request to withdraw from this new proceeding.

It is clear from the petitions for intervention filed in Docket No. DRU-00-2 that this situation is more factually complex than it might appear from the petition for declaratory order filed by U S WEST.³ It appears that the factual inconsistencies may be caused, at least in part, by the differing technological and/or procedural methods used by the different companies. To allow the parties to work toward a common understanding of the issues and questions that need to be addressed, a technical workshop will be convened prior to any filing of testimony.

To make the workshop productive, the Board requests that all parties submit a list of technical issues they perceive to be pertinent to a discussion of the exchange of transit traffic and related compensation issues. Once the lists of technical and compensation related issues have been submitted, the Board will prepare an agenda for the workshop. The agenda will be provided to all parties prior to the workshop so that all parties will have an opportunity to be represented by persons fully prepared to discuss the issues on the agenda.

IT IS THEREFORE ORDERED:

1. The questions and issues raised by U S West Communications, Inc., in its May 17, 2000, petition for declaratory order and any related questions and issues

See, INS Petition for Intervention at 3-4 and ITA Petition for Intervention at 3-4.

concerning transit traffic, or the compensation for such traffic, raised by the parties will be considered in this proceeding, identified as Docket No. SPU-00-7.

- 2. The petitions for intervention filed in Docket No. DRU-00-2 by AT&T Wireless Service, Inc., Iowa Network Services, Inc., Iowa Telecommunications Association, Rural Iowa Independent Telephone Association, and U.S. Cellular Corporation are granted as if filed in this docket, unless the party notifies the Board on or before June 30, 2000, that it doesn't wish to intervene in this new proceeding.
- 3. The Executive Secretary of the Board is directed to mail a copy of this order, thus giving notice of this proceeding, to each person listed on Attachment A to this order.
- 4. Any person desiring to intervene in this docket, who has not already been granted intervention, shall file a petition to intervene on or before July 6, 2000.
 - 5. The following procedural schedule is established for this proceeding:
 - a. All parties shall file a list of technical issues they perceive to be pertinent to a discussion of the exchange of transit traffic and related compensation issues on or before July 10, 2000.
 - b. A technical workshop for the purpose of discussing the overall subject matter of the exchange of transit traffic and the many issues involved will commence at 10 a.m. on August 7, 2000, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties are encouraged to discuss and seek common ground on the factual, technological, and procedural differences that appear to exist among the differing companies in the handling of transit traffic and the related issues of compensation for that traffic. To

assist in this objective, the Board will issue an agenda prior to the technical workshop listing the issues to be discussed. All parties shall be represented by persons fully prepared to discuss the issues on the agenda.

- All parties shall file prepared direct testimony, with supporting exhibits and workpapers, on or before September 4, 2000.
- d. All parties shall file any prepared responsive testimony, with supporting exhibits and workpapers, on or before October 2, 2000.
- e. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on October 31, 2000, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.
- f. Any party desiring to file an initial brief may do so on or before November 14, 2000.
- g. Any party desiring to file a reply brief, responding to the arguments raised in any other party's initial brief may do so on or before November 28, 2000.
- 6. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

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- 7. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.
- 8. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of the hearing.
- 9. Pursuant to 199 IAC 7.7(11), the deadline for filing responses to motions will be no later than five days from the date the motion is filed. All motions should be served on all other parties, and on all persons who have filed a petition to intervene that has not yet been ruled upon, by facsimile transfer or by electronic mail as well as by United States mail, on or before the date of filing.

UTILITIES BOARD

	/s/ Allan T. Thoms
ATTEST:	/s/ Susan J. Frye
/s/ Raymond K. Vawter, Jr. Executive Secretary	/s/ Diane Munns
Dated at Des Moines, Iowa, this 23 rd day of June, 2000.	

ATTACHMENT A

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